

### **REMARKS**

This responds to the Office Action mailed on January 23, 2009.

Claims 1, 4, 42, and 43 have been amended, claims 22, 25-27, and 29-41 have been canceled, and no claims have been added; as a result, claims 1, 4-21, 42 and 43 are now pending in this application.

#### **§ 101 Rejection of the Claims**

Claims 1, 4-7, 9-22, 25-27 and 29-42 were rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. For clarity, each rejected independent claim and its dependent claims is addressed separately below.

#### **Regarding Claims 1, 4-7, and 9-21**

Independent claim 1 is hereby amended to recite, for example, “determining that a seller is eligible to offer a buyer the money-back guarantee, the determining done at least in part through use of one or more processors” and “receiving, via a network interface device, a reimbursement request.” As amended, the method operations recited in claim 1 are clearly performed by components that are implemented, at least in part, in hardware. As such, the method of claim 1 is tied to a specific machine and at least meets the first prong of the two-part machine-or-transformation test set forth in *In re Bilski*. Consequently, Applicant submits that claim 1 is directed to statutory subject matter and is in condition for allowance. Applicant respectfully requests that the Examiner withdraw the rejection of claims 1, 4-7, and 9-221 under 35 U.S.C. § 101, and allow the claims.

#### **Regarding Claims 22, 25-27 and 29-41**

Claims 22, 25-27 and 29-41 have been cancelled.

#### **Regarding Claim 42**

In order to advance the prosecution of this case, Applicant has amended the specification to delete the reference to a computer readable medium including a carrier wave signal.

Applicant respectfully reserves the right to reintroduce this portion of the specification upon a change in the law of the patentability of carrier wave signals.

Specifically, paragraph [0070] in the specification has been amended to exclude “carrier wave signals” from a “machine-readable medium,” as suggested by the examiner. In view of the amendment to the specification, it is submitted that the rejection under 35 U.S.C. § 101 has been overcome.

### § 112 Rejection of the Claims

Claims 22, 25-27 and 29-42 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite.

Claims 22, 25-27 and 29-41 have been cancelled.

Regarding claim 42, as stated above, Applicant has amended the specification to delete the reference that a computer readable medium includes a carrier wave signal. Specifically, paragraph [0070] in the specification has been amended to exclude “carrier wave signals” from a “machine-readable medium,” as suggested by the examiner. In view of the amendment to the specification, it is submitted that the rejection under 35 U.S.C. § 112 has been overcome.

### § 103 Rejection of the Claims

#### Regarding Claims 1, 4-7, 9-18, 20-22, 25-27, 29-39 and 41-43

Claims 1, 4-7, 9-18, 20-22, 25-27, 29-39 and 41-43 were rejected under 35 U.S.C. § 103(a) as being obvious over Junger et al. (U.S. Publication No. 2004/0172260, hereinafter; “Junger”) in view of Lee et al. (U.S. Publication No. 2004/0117383, hereinafter; “Lee”).

As will be fully explained below, Junger and Lee do not teach or suggest the subject matter for which they are relied upon, and therefore, independent claims 1, 22, 42, and 43 and all dependent claims are not obvious over the combination of Junger and Lee.

Claim 1 has been amended to more distinctly point out the differences between claim 1 and the prior art. Amended claim 1, recites in pertinent part:

determining that a seller is eligible to offer a buyer the money-back guarantee...;

subsequent to the determining that the seller is eligible to offer the buyer the money-back guarantee, providing the seller an option to offer the buyer the money-back guarantee.

In the Office Action, the Examiner argues that the limitation of “providing a seller eligible to offer a buyer the money-back guarantee an option to offer the buyer the money-back guarantee” is taught by Junger paragraph [0030].<sup>1</sup> Applicant respectfully disagrees.

Junger discusses an “electronic registration system” that “facilitates authorized product returns and reduces the incidence of improper returns.”<sup>2</sup> This is done by the use of “individual product identification information for purchased products, gathered, for example, at the point of a sales transaction or during the fulfillment of an on-line purchase from an e-tailer, and storing the information in one or more transaction databases. In an example embodiment of the present invention, individual product identification information (such as a unique serial number) is stored in a local transaction database along with additional information including at least the date of the transaction. A transaction receipt such as a customer sales receipt may be created and includes at least the unique product identification information and the date of the transaction.”<sup>3</sup> The system discussed in Junger enables “real-time electronic verification of a particular product sale transaction as well as the currently available return/warranty options for a particular product presented for return”<sup>4</sup> and “enables the consumer or the purchaser of the product to access the stored information ... to directly access the transaction information and determine if the product qualifies for return.”<sup>5</sup>

Junger paragraph [0030] recites:

In accordance with an important aspect of the invention, the invention also enables the consumer or the purchaser of the product to access the stored information, via a Web site or the like, to obtain information about a return of the product and/or to initiate a return procedure. The initiation of the return procedure may include, for example, providing the consumer with a return authorization and return instructions upon request and upon verifying that the return meets the applicable return criteria. The consumer can then use the return authorization (RA) and the return instructions to send the product back to the appropriate location (which may be, for

<sup>1</sup> The Office Action p. 4, lines 9-10.

<sup>2</sup> Junger Abstract.

<sup>3</sup> Junger [0028].

<sup>4</sup> Junger [0029].

<sup>5</sup> Junger [0030].

example, the retailer, e-tailer, manufacturer or third party service provider). If the product does not qualify for return, the invention enables the consumer to obtain other useful information regarding the product via the Web site, such as operating or hook-up instructions for the product, as well as information on locations for warranty or non-warranty service for the product. In other words, the invention enables the consumer to directly access the transaction information and determine if the product qualifies for return simply by accessing a Web site or other similar on-line service, or by using an automated 800 (toll-free) telephone number or the like. In addition, if the product qualifies for return, the consumer is automatically provided with a pre-return authorization and instructions for completing the return process. This enables the consumer to return the product with little or no front-end involvement by the retailer, e-tailer or manufacturer.

(Emphasis Added)

Thus, Junger paragraph [0030] discusses enabling a consumer or purchaser of a product to obtain information about a return of a product and initiate a return procedure with little or no front-end involvement by the retailer. Initiation of the return procedure includes providing a consumer with a return authorization and return instructions. Clearly this is not the same as “providing the seller an option to offer the buyer the money-back guarantee” subsequent to determining that the seller is eligible to make the offer as recited in claim 1.

As such, Junger in view of Lee fails to teach or suggest what is alleged in the Office Action. Therefore, Applicant respectfully submits that there are substantial differences between what is claimed and what the Office Action contends is shown in Junger in view of Lee. Those differences are significant and non-obvious to a person of ordinary skill in the art at the time the application was filed. Thus, claim 1 is not rendered obvious by Junger in view of Lee and allowable. As claim 1 is allowable, its dependent claims are similarly allowable.

Claims 22, 25-27, 29-39 and 41 have been cancelled.

Claim 42, as amended, includes a machine readable medium storing a set of instructions that cause the machine to, “subsequent to determining that the seller is eligible to offer the buyer the money-back guarantee, provide the seller eligible to offer the buyer the money-back guarantee an option to offer the money-back guarantee” and therefore should be allowable for at least the reasons presented above.

Claim 43, as amended, includes a system comprising “a second means for, subsequent to the first means determining that the seller is eligible to offer the buyer the money-back

guarantee, providing the seller eligible to offer the buyer the money-back guarantee an option to offer the money-back guarantee” and therefore should be allowable for at least the reasons presented above.

*Regarding Claims 19 and 40*

Claims 19 and 40 were rejected under 35 U.S.C. § 103(a) as being obvious over Junger in view of Lee and further in view of Harrison et al. (U.S. Publication No. 2001/0039524, hereinafter; “Harrison”).

Claim 40 has been cancelled.

Claim 19 is dependent on independent claim 1 and includes all limitations therein. Therefore, Junger in view of Lee and further in view of Harrison fails to teach or suggest what is alleged in the Office Action. Therefore, Applicant respectfully submits that there are substantial differences between what is claimed and what the Office Action contends is shown in Junger in view of Lee and further in view of Harrison. Those differences are significant and non-obvious to a person of ordinary skill in the art at the time the application was filed. Thus, claim 19 is not rendered obvious by Junger in view of Lee and further in view of Harrison and allowable. As claim 19 is allowable.

**CONCLUSION**

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's representative at (408) 278-4042 to facilitate prosecution of this application.

If necessary, please charge any additional fees or deficiencies, or credit any overpayments to Deposit Account No. 19-0743.

Respectfully submitted,

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Date 4/23/2009

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**CERTIFICATE UNDER 37 CFR 1.8:** The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 23rd day of April, 2009.

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